

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	Docket No. 18335
)	
[Redacted])	DECISION
)	
)	
_____)	

This case arises from a timely protest of a State Tax Commission staff decision denying the petitioner's property tax reduction benefit for 2004. This matter was submitted for decision based on the documents in the file. The State Tax Commission has reviewed the file and makes its decision thereon.

[Redacted] (petitioner) filed a property tax reduction benefit application on or about April 9, 2004. Idaho Code § 63-701 establishes certain criteria for an applicant to qualify for the property tax reduction benefit. Because the petitioner did not appear to satisfy the status requirements to be eligible for the benefit, the staff sent her a notice of the intent to disapprove her application. The Petitioner appealed the determination.

Idaho Code § 63-701(1) provides:

63-701. Definitions. -- As used in this chapter:

(1)"Claimant" means a person who has filed a claim under the provisions of sections 63-701 through 63-710, Idaho Code. Except as provided in section 63-702(2), Idaho Code, on January 1 of the year or before April 15 in which the claim was filed a claimant must be an owner of a homestead and be:

- (a)Not less than sixty-five (65) years old; or
- (b)A child under the age of eighteen (18) years who is fatherless or motherless or who has been abandoned by any surviving parent or parents; or
- (c)A widow or widower; or
- (d)A disabled person who is recognized as disabled by the social security administration pursuant to title 42 of the United States Code, or by the railroad retirement board pursuant to title 45 of the United

States Code, or by the office of management and budget pursuant to title 5 of the United States Code; or

(e) A disabled veteran of any war engaged in by the United States, whose disability is recognized as a service-connected disability of a degree of ten percent (10%) or more, or who has a pension for nonservice-connected disabilities, in accordance with laws and regulations administered by the United States veterans administration; or

(f) A person, as specified in 42 U.S.C. 1701, who was or is entitled to receive benefits because he is known to have been taken by a hostile force as a prisoner, hostage or otherwise; or

(g) Blind.

In her letter protesting the intent to deny her the benefit, the petitioner said her application to the Social Security Administration for recognition as disabled was still pending. She said a hearing was held on September 17, 2004, but, because new evidence was presented during the hearing, a decision had not yet been rendered.

In response to the Tax Commission's telephone call to the petitioner asking for a progress report on her claim to the Social Security Administration, the petitioner sent the Tax Commission a copy of a letter from her Social Security Consultant advising her that the Social Security Administration had rendered an unfavorable decision on her Social Security Disability Claim. The Consultant further advised the petitioner she had filed a Request for Review of Hearing Decision/Order.

On December 21, 2005, the Tax Commission contacted the Social Security Administration for a report of the status of the petitioner's disability claim. The response showed the Social Security Administration has not recognized the petitioner as disabled, and the petitioner is not receiving disability benefits. Efforts to contact the petitioner have been unsuccessful.

The definitions used to describe the circuit breaker benefit program define conditions as they

exist on January 1 of the year for which the benefit is being applied. On January 1, 2004, the petitioner was not 65 or older, blind, a prisoner of war, a widow or widower, a fatherless or motherless child under the age of 18, and was not recognized as disabled by the Social Security Administration, the Railroad Retirement Board, the Veterans Administration, or Federal Civil Service.

The petitioner does not qualify as a claimant for the property tax reduction benefit. She must be denied the benefit for 2004. However, if the appeal to the Social Security Administration results in a determination that the petitioner is disabled and the date of disability is retroactive to January 1, 2004, or before, she would meet the “recognized as disabled by the Social Security Administration” status requirement for 2004. The petitioner’s application and file would be reopened and this Decision amended or cancelled. In addition, the petitioner could qualify as a claimant for the property tax reduction benefit in future years.

The Tax Commission is aware there is some potential this decision could cause a hardship to the property tax reduction applicant. The proper jurisdiction to handle such hardship situations falls with the county commissioners under Idaho Code § 63-711.

WHEREFORE, the decision of the State Tax Commission staff is APPROVED, AFFIRMED and MADE FINAL.

An explanation of the petitioner's right to appeal this decision is enclosed with this decision.

DATED this ____ day of _____, 2006.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE BY MAIL

I hereby certify that I have on this _____ day of _____, 2006, served a copy of the within and foregoing DECISION by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[Redacted]

[Redacted]

[Redacted]